

LEGISLATIVE BILL 355

Approved by the Governor May 16, 1979

Introduced by Clark, 47

AN ACT relating to public health and welfare; to define terms; to provide when a physical therapist assistant may render services; to provide for the certification of programs and physical therapist assistants; to set fees; to provide penalties; and to provide construction.

Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds:

(1) That in its concern with the current need and utilization of physical therapy services in Nebraska it is essential to develop additional manpower for physical therapy services;

(2) That it is essential to encourage a more effective utilization of the skills of physical therapists by enabling them to delegate certain specified tasks to qualified physical therapist assistants when such delegation is consistent with the patient's health and welfare; and

(3) That this act is established to encourage the utilization of a certified physical therapist assistant by licensed physical therapists.

Sec. 2. As used in this act, unless the context otherwise requires:

(1) Approved program shall mean a program for the education of physical therapist assistants approved by the Department of Health upon the recommendation of the Board of Examiners in Physical Therapy;

(2) Board shall mean the Board of Examiners in Physical Therapy;

(3) Department shall mean Department of Health of the State of Nebraska;

(4) Physical therapist assistant shall mean any person who has graduated from a school for physical therapist assistants approved by the department or who has been certified by the board according to subsection (2) of section 8 of this act;

(5) Physical therapy aide shall mean a nonlicensed or noncertified worker whose primary function is to perform routine tasks related to the operation of a physical therapy service, but who may assist with physical therapy related activities;

(6) Supervision shall mean responsible supervision and control when a licensed physical therapist assumes legal liability for the services of a physical therapist assistant. Except in cases of emergency or when appropriate duties and protocols have been outlined in the initial application and approved by the board, supervision shall require that the physical therapist shall be present on the premises of the practice site for consultation and direction of the actions of the physical therapist assistant. Such exceptions shall also include but not be limited to (1) ambulating patients, (2) applying hot packs, and (3) performing range of motion exercises. Such supervision may be further defined by rules and regulations promulgated by the department upon the recommendation of the board; and

(7) Trainee shall mean any person who is currently enrolled in an approved program.

Sec. 3. Notwithstanding any other provisions of law, a physical therapist assistant may perform physical therapy services when he or she renders such services under the supervision of a licensed physical therapist or group of licensed physical therapists approved by the board, except that no physical therapist assistant shall perform the following:

- (1) Interpretation of physician referrals;
- (2) Plan treatment programs;
- (3) Initial evaluations or reevaluation of patients;
- (4) Readjustment of treatment programs without consultation with the certified and licensed physical therapist;
- (5) Tests and measurements, with the exception of goniometry and functional muscle testing;
- (6) Home instructions to patients or families;
- (7) Joint assessment and mobilization; or

(8) Complex neurodevelopmental treatments.

Sec. 4. Any physical therapist assistant certified under this act to perform physical therapy services may perform those services only:

(1) In the office of the physical therapist to whom the physical therapist assistant is assigned;

(2) When the physical therapist to whom he or she is assigned is present or providing supervision;

(3) In a hospital, with the approval of the appropriate authority of such hospital, where the physical therapist to whom he or she is assigned is a member of the staff; or

(4) On calls outside the office of the physical therapist when the assigned patients and the place of practice of the physical therapist assistant are identical to that of the primary care supervisory physical therapist to whom he or she is assigned. A satellite office staffed solely by a physical therapist assistant is prohibited.

Sec. 5. Notwithstanding any other provision of law, a trainee may perform physical therapy services when he or she renders such services within the scope of an approved program under the supervision of a licensed physical therapist. Any trainee in a program approved under this act may perform physical therapy services only within such program and only subject to the same limitations as apply to a physical therapist assistant.

Sec. 6. The board, with the concurrence of the department, shall approve only a school utilizing an approved program. Rules and regulations may be promulgated by the department, upon the recommendation of the board, for continuing education requirements for physical therapist assistants in a manner identical to that outlined in sections 71-161.09 and 71-161.10, Reissue Revised Statutes of Nebraska, 1943.

Sec. 7. The board shall formulate guidelines for the consideration of applications by a licensed physical therapist to supervise physical therapist assistants. The board, whenever necessary for the protection of public health and safety, may require such information from the physical therapist as is necessary to determine that the physical therapist assistant will be properly utilized and supervised.

Sec. 8. (1) The department, with the concurrence of the board, shall approve an application by a licensed physical therapist to supervise a physical therapist assistant when the proposed assistant is a graduate of an approved program. All physical therapist assistant applicants shall also successfully pass the written and practical examinations adopted by the board, with the concurrence of the department.

(2) The board shall grant any practicing physical therapist a certificate of approval to supervise not more than two physical therapist assistants. The department may certify as a physical therapist assistant, and furnish a certificate to any person not qualified under subsection (1) of this section, if such person can furnish written evidence to the board that he or she has been employed in the State of Nebraska for three years within the last five years under the supervision of a physical therapist licensed in Nebraska and such person possesses knowledge and training or a combination of knowledge and training equivalent to that obtained in an approved school. The board may certify persons as physical therapist assistants under this section for eighteen months only, after the effective date of this act.

Sec. 9. Any person who has not been approved by the board, with the concurrence of the department, and who holds himself or herself out as a physical therapist assistant, or who uses any other term to indicate or imply that he or she is a physical therapist assistant, shall be guilty of a Class III misdemeanor.

Sec. 10. The department, with the concurrence of the board, may deny, suspend, or revoke the certificate of approval to supervise a physical therapist assistant held by any physical therapist when it finds that this act or any of the rules and regulations adopted by the board pursuant to such act are not being complied with. In the case of failure to pay the required fees, denial shall be automatic. Any denial, suspension, or revocation shall be subject to review pursuant to the provisions of Chapter 84, article 9.

Sec. 11. The board shall adopt rules and regulations necessary for the administration of the physical therapist assistants program, including contents of the application and a definition for onsite supervision. Such rules and regulations shall be adopted in accordance with Chapter 84, article 9. The board may adopt such rules and regulations as may be necessary to insure both the continued competency of physical therapist assistants and the proper utilization of such

assistants by a physical therapist or groups of physical therapists. The board may establish regulations as to what constitutes an emergency not requiring onsite supervision of the licensed physical therapist. The board shall adopt all rules and regulations required or authorized by this act only after approval of the department.

Sec. 12. (1) A fee of twenty-five dollars shall accompany the annual application to the board by a physical therapist or group of physical therapists for authorization to supervise a physical therapist assistant.

(2) Upon approval by the board of an application for certification of a physical therapist assistant, the applicant physical therapist assistant shall be charged a fee of twenty-five dollars, and a fee of ten dollars shall accompany each yearly application for renewal of the physical therapist assistant certificate.

(3) In the event the physical therapist who has been granted a certificate of approval to supervise a physical therapist assistant terminates such role, reapplication shall be made by the physical therapist assuming the responsibility for the supervision of the physical therapist assistant. Such reapplication shall be made prior to the actual use of the physical therapist assistant in the practice of physical therapy.

(4) All fees received shall be expended (a) for the benefit of the profession of physical therapy, (b) as provided in section 71-162, Revised Statutes Supplement, 1978, and (c) for the purpose of administering and enforcing this act.

Sec. 13. Any physical therapist or physical therapist groups utilizing physical therapist assistants shall be liable for any negligent acts or omissions of physical therapist assistants while acting under their supervision and control.

Sec. 14. Any physical therapist assistant who is certified and who renders services under the supervision and control of a licensed physical therapist as provided by this act shall not be construed to be engaged in the unauthorized practice of physical therapy.

Sec. 15. The provisions of this act shall not be construed to prohibit any duly licensed nurse from providing services considered as the ordinary practice of nursing as defined in section 71-1,132.05, Reissue Revised Statutes of Nebraska, 1943.